

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: BAIR HUGGER FORCED AIR
WARMING DEVICES PRODUCTS
LIABILITY LITIGATION

MDL No. 15-2666 (JNE/DTS)

This Document Relates To:
All Actions

**AGENDA AND
JOINT STATUS UPDATE**

The parties respectfully submit the following Agenda and Joint Status Update in anticipation of their status conference with Magistrate Judge Schultz on May 27, 2025.

AGENDA

1. Plaintiff Fact Sheets

Defendants' 21st Motion to Dismiss (Dkt. No. 2807)

Other PFS Disputes per the Court's Order of May 14 (Dkt. No. 2814)

2. Status Update

Number of Cases in the MDL

Trial Candidates

Selection of Additional Trial Candidates

State Court Cases

Canadian Action

Non-Case-Specific Discovery

Selection of Additional Trial Candidates

Other Pending Motions

Appeals

STATUS UPDATE

1. Number of Cases in the MDL

On May 21, 2025, there were 8,675 active federal Bair Hugger cases pending in this MDL.

2. Trial Candidate Cases

In late 2024, the parties selected 34 trial candidate cases pursuant to a protocol negotiated under the supervision of former special settlement master. Sixteen of these cases remain pending as of May 21, 2025:

Plaintiff	Court	Trial	Notes
<i>Boncher</i>	E.D. Pa.	Mistrial on 5/2 following three days of deliberation	3M's Rule 50 motion is under advisement. New trial not set.
<i>Robinson</i>	M.D. Fla.	Trial call 8/4/25	MSJ and FRE 702 motions under advisement.
<i>Fratino</i>	D.S.C.	Trial 3/2/26 or 60 days after resolution of Rule 56 motion, whichever is later	Plaintiff expert disclosures due 7/14/25.
<i>Finley</i>	D.S.C.	Trial 5/11/26 or 60 days after resolution of Rule 56 motion, whichever is later	Plaintiff expert disclosures due 7/21/25.
<i>Billitteri</i>	D. Nev.	Not set	Fact discovery closed. MSJ and FRE 702 motions due 8/13/25.
<i>Cage</i>	S.D. Ohio	Not set	In discovery.
<i>Clark (fka Butler)</i>	S.D. Ohio	Not set	Substitution granted following plaintiff's death. MSJ and FRE 702 motions due 6/4/25.

<i>Ciolino-Terzoli</i>	D. Nev.	Not set	Fact discovery closed. MSJ and FRE 702 motions due 8/13/25.
<i>Goffinet</i>	S.D. Ohio	Not set	MSJ due 7/25/25.
<i>Jones</i>	D. Minn.	Not set	MSJ and FRE 702 motions under advisement.
<i>Moore</i>	D. Minn.	Not set	Removed from calendar based on product ID issue.
<i>Pelican</i>	D. Minn.	Not set	MSJ and FRE 702 motions under advisement.
<i>Prichard</i>	N.D. Ga.	Not set	Schedule stayed pending decision on product ID-focused MSJ; Plaintiff has requested to amend to add Stryker as a defendant.
<i>Skinner</i>	D. Minn.	Not set	MSJ and FRE 702 motions under advisement.
<i>Sooter</i>	N.D. Ill.	Not set	In discovery.
<i>Vinson</i>	S.D. Tex.	Not set	Stryker added as defendant based on product ID dispute.

Since the last status update in January, *Alvord*, 24-cv-0377 (M.D. Tenn.), and *Hyden*, 24-cv-0283 (N.D. Ind.), have been dismissed with prejudice.

3. Selection of Additional Trial Candidates

As directed in the Court's Order of April 16, 2025 (Dkt. No. 2729), the parties will submit their proposals for further proceedings in the cases identified according to the February 7, 2025 Order (Dkt. No. 2549). The parties have agreed to submit their proposals simultaneously at 9 a.m. on May 27.

4. State Court Cases

There are eight pending state court cases:

Plaintiff	Court	Trial Date	Notes
<i>Tye</i>	Jackson County, Missouri	9/29/25	Healthcare providers also named as defendants.
<i>Friedrich</i>	Ramsey County, Minnesota	Not set	Prior schedule vacated; new scheduled not yet set.
<i>Kelso</i>	Harris County, Texas	2/24/26	Healthcare providers also named as defendants.
<i>Moore</i>	Philadelphia Common Pleas, Pennsylvania	4/6/26	Hospital also named as a defendant. In discovery.
<i>Sedberry</i>	Bernalillo County, New Mexico	Not set	Hospital also named as a defendant.
<i>Sparrow</i>	Bernalillo County, New Mexico	Not set	Healthcare providers also named as defendants.
<i>Barry</i>	Lewis and Clark County, Montana	Not set	Hospital named as co-defendant was dismissed on summary judgment.
<i>George</i>	Lewis and Clark County, Montana	Not set	Hospital named as co-defendant; has moved for early summary judgment. In discovery.

5. Canadian Action

On June 22, 2016, Defendants were served with a Canadian putative class action, *Driessen v. 3M Canada Company, 3M Company and Arizant Healthcare Inc.*, filed in Ontario Superior Court of Justice, File No. 16-69039. Plaintiff Driessen seeks to represent

a putative class of “[a]ll persons residing in Canada who had the 3M Bair Hugger Forced-Air Warming Device used on them during surgery.” There has been no recent case activity.

6. Non-Case-Specific Fact and Expert Discovery

On May 19, Plaintiffs filed a Motion to Compel Discovery Responses Pursuant to CAR Protocol (PTO 12) or in the Alternative to Correct Search Terms. (Dkt. 2816.) The motion will be argued on June 24 at 11 a.m. The parties have also been conferring on discovery supplementation issues and anticipate that there may be further motion practice on these issues.

The Court heard argument on Plaintiffs’ Motion to Conduct De Bene Esse Depositions (Dkt. No. 2552) on April 8 and took the motion under advisement.

The Court has also taken under advisement the issue of production of various insurance policies held by Defendants as it relates to this litigation.

7. Other Pending Motions

Defendants filed their Thirteenth Motion to Dismiss relating to deceased plaintiffs on April 11, 2025. (Dkt. No. 2718.) No opposition has been filed.

The Court heard Defendants’ Nineteenth and Twentieth Motions to Dismiss for Failure to Comply with Pretrial Order No. 14 (Dkt. Nos. 2574, 2584) on April 8, 2025.

Defendants filed their Twenty-First Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 on May 13, 2025. (Dkt. No. 2807.) No oppositions have been filed. Judge Erickson referred the motion to Judge Schultz. (Dkt. No. 2815.) The motion is set to be heard at the status conference on May 27 at 1 p.m.

No other motions are pending at this time.

8. Appeals

None pending.

Dated: May 23, 2025

Respectfully submitted,

s/Benjamin W. Hulse

Benjamin W. Hulse (MN #0390952)
NORTON ROSE FULBRIGHT US LLP
30 South Sixth Street, Suite 3100
Minneapolis, MN 55402
Phone: (612) 321-2800
Email: ben.hulse@nortonrosefulbright.com

Co-Lead Counsel for Defendants

s/Genevieve M. Zimmerman

Genevieve M. Zimmerman (MN #330292)
MESHBESHER & SPENCE LTD.
1616 Park Avenue South
Minneapolis, MN 55404
Phone: (612) 339-9121
Fax: (612) 339-9188
Email: gzimmerman@meshbesher.com

Co-Lead Counsel for Plaintiffs